**DOES THE FEDERAL RULES OF CIVIL PROCEDURE, RULES OF APPELLATE PROCEDURE APPLY TO INDIVIDUALS APPEARING PRO SE OR ONLY TO ATTORNEYS?**

There seems to be some inconsistency with the application and use of the Federal Rules of Civil Procedure, Rules of Appellate Procedure in both the district court and the Court of Appeals Tenth Circuit.

When used by an Attorney the Court favors the Rules cited above, but when used by a person appearing Pro Se – the Rules do not seem to apply. Pro Se Petitioner has repeatedly been denied i.e. initial disclosures, discovery, and motions being granted prior to receiving the motion in question. Attorneys certifying documents knowing they are false, the Courts ignoring well established rules because one party is appearing Pro Se.

Federal Rules of Civil Procedure, Rules of Appellate Procedure must be construed by the following to have any appearance of fairness.

Secondly the Tenth Circuit have consistently held that "[S]trict statutory construction is inherent in a standard of strict compliance," Texas Western Financial Corp v Edwards, 797 F 2d 902,905 (10th Cir. 1986)

Principles of statutory construction require that a statute be construed so that all its provisions have effect, and so that no part of the statute is superfluous. Homeland Stores, Inc v. Resolution Trust Corp., 17 F.3d 1269, 1273 (10th Cir 1994).

"To read out of a statutory provision a clause setting forth a specific condition or trigger to the provisions applicability is ...an entirely unacceptable method of construing statutes." National Resources Defense Council, Inc v United States, 822 F.2d 104 (D.C. Cir 1987); 2A Sutherland, Statutes and Statutory Construction, §§46.05, .06(C. Sands rev. 4th ed. 1984).

Thus to require less than strict compliance with FRAP 27,10th Cir R. 27 Motions shows direct and intentional bias towards persons appearing Pro Se.

**HAS THE ACTIONS OF THE TENTH CIRCUIT:**

**1 VIOLATED THE PETITIONERS RIGHT OF AN IMPARTIAL TRIBUNAL:**

**Impartial Tribunal**. Just as in criminal and quasi criminal cases, Turmey v Ohio, 273 U.S. 510(1927); In re Murchinson, 349 U.S. 133 (1955). "an impartial decision maker" is an "essential" right in civil proceedings as well. Goldberg v Kelly, 397 U.S. 254, 271 (1970) "The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the

law... At the same time it preserves both the appearance and reality of fairness . . . by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him." Marshall v Jerrico, 446 U.S. 238, 242 (1980);Schweiker v McClure, 456 U.S. 188,195 (1992).

**2. RIGHT OF DUE PROCESS:**

The Courts have consistently upheld the Right of Due Process is inviolable and a protected Constitutional Right specifically the 5th and 14th Amendment of the United States Constitution guarantees such protection.

**Notice.** "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprize interested parties of the pendency of they action and afford them an opportunity to present their objections." Mullane v Central Hanover Trust Co. 339 U.S. 306 314(1950)

The notice must be sufficient to enable the recipient to determine what is being proposed and what he must do to prevent

the deprivation of his interest. Goldberg v Kelly, 397 U.S. 254,267-68 (1970)

The actions by the Court to grant a motion for "Notice of Substitution of Counsel" the same day it was received and prior to Plaintiff-Appellant receives the said Motion.

Not only shows the violation of Due Process was intentional, but proves that no Impartial Tribunal existed or there is Bias shown toward the Plaintiff- Appellant.

**CONCLUSION**

There is no doubt that through their actions both the District Court, Court of Appeals for the Tenth Circuit, the Defendant-Appellee by and through counsel **had intent** to deny Pro Se Plaintiff-Appellant of his due and equal protection of the laws.

They have done nothing but hinder, impede, obstructed and defeated the due course of justice by their actions through out this entire process.

Their actions have been criminal and the Pro Se Appellant demands Justice and criminal charges to be made for this travesty.

Petitioner asks this Court to protect his 14th Amendment Rights under the Constitution by enforcing the provisions of: 273. Act to Enforce the Fourteenth Amendment- April 20, 1871 (U.S. Statutes at Large, Vol XVII, p 13ff)

Respectfully Submitted,

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# APPENDIX

**APPENDIX A – NOTICE OF SUBSTITUTION OF COUNSEL FILED BY DEFENDANT-APPELEES ON JUNE 13 2005 AND GRANTED BY PATRICK FISHER, CLERK ON JUNE 13 2005**

IN THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT MOTION DECIDED ON JUNE 13, 2005. Appeal No. 05-4023

Roger Liverman, Jr. Plaintiff-Appellant

Vs

George W Bush and Alberto Gonzales, Defendant-Appelees

Pursuant to Rule 27.3(A)(8) of the Tenth Circuit Rules, President George W Bush and Attorney General Alberto Gonzales, by and through their undersigned counsel, hereby give notice that Carlie Christensen. Assistant United States Attorney is now counsel for the President and the Attorney General and should be substituted for Jan N Allred. Please serve all further notices, pleadings, papers and other materials in this case upon:

**Please Note: This is the only item received by Plaintiff-Appellant from both the Tenth Circuit Court of Appeals and Plaintiff-Appellant did not receive a copy of the original Motion from the Defendant-Appelees.**

**APPENDIX B – OBJECTION TO GRANTING APPELLEES NOTICE OF SUBSTITUTION OF COUNSEL FILED BY PLAINTIFF-APPELLANT JUNE 21, 2005.**

**NOTE: NO ACTION OR RESPONSE BY TENTH CIRCUIT OR DEFENDANT-APPELLEE**

IN THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT MOTION DECIDED ON JUNE 13, 2005. Appeal No. 05-4023

Roger Liverman, Jr. Plaintiff-Appellant

Vs

George W Bush and Alberto Gonzales, Defendant-Appelees

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**OBJECTION TO GRANTING APPELLEES NOTICE OF SUBSTION OF COUNSEL**

Pursuant to the Rules of Civil Procedure for the Tenth Circuit and of common sense and fair play. It would be nice to have the opportunity to object to a Filing by the Defendant at least once before it ruled on before Plaintiff-Appellant has even received a copy of the filing in Question.

I would like to direct the Impartial Tribunal that the date of this filing was granted on June 13, 2005. The Plaintiff-Appellant did not receive said filing until June 17, 2005. According to the attached filing it was filed and granted the same day. That was a pretty quick granting. It makes one feel that I am not a party to my own lawsuit or Appeal in this

esteem body and ironically enough it is a major issue that is being contested in this Appeal.

I also like to point out that there is a conflict of interest in this matter since I believe this is the first attempt in a series of upcoming legal and political maneuvering to combine these two SEPARATE but intrinsically intertwined significance both play on each other.

One is a Writ of Mandamus to Compel the President to enforce the Rule of Law and ultimately act on a Criminal Complaint made to the United States Attorney General this Appeal No. 05-4023. This criminal complaint is all encompassing in both its scope and reach of individuals and their "wrong doings" in other words the Assistant United States Attorney that is being asked to take this case is embarrassingly enough listed in that criminal complaint in her role of hindering and obstructing justice and as well as other colorful acts that are detailed in the Formal Complaint made to the Attorney General.

The Case that Carlie Christensen, Assistant United States Attorney is currently represents the Office of Inspector, U.S. Department of Treasury in a Freedom of Information Act Case that seeks a certified Document that is already well known and also been found in both the files of United States Judge Alba's Office but also in Assistant United States Attorney Stephen Sorensen's files (by happen stance- Miss Christiansen superior). I mention this because the FOIA case was seeking a copy of the one that was sent to the House Judiciary Committee by the Office of Inspector, U.S. Department of Treasury which stated under oath and presented by Carlie Christensen under oath that said document never existed. Which perpetrated a fraud upon the Court.

Which brings me back to this Ethical question can she Represent the President and the Attorney General with no conflict when she is potentially the one would be affected by the outcome of the Mandamus.

And Again: HOW CAN I BE ASURED OF AN IMPARTIAL TRIBUNAL WHEN THE COURTS CONTINUALLY GRANT MOTIONS BEFORE PLAINTIFF RECEIVES THE MOTION IN QUESTION??

These are not light issues and goes directly to the integrity and disposition of this Court. Plaintiff-Appellant DEMANDS an IMMEDIATE HEARING to PUT THIS ISSUE TO REST OF WHETHER OR NOT I AM GOING TO RECEIVE A FAIR AND IMPARTIAL TRIBUNAL OF MY APPEAL. OR AT THE VERY LEAST: THE CURRENT JUDGES WHO GRANTED THIS MOTION BE RECUSED AND ANOTHER PANEL OR JUDGES BE ASSIGNED.

IF NO ANSWER IS RECEIVED IN A TIMELY MANNER ON THIS SUBJECT. I WILL SEEK A WRIT OF MANDAMUS FROM THE UNITED STATES SUPREME COURT TO DEAL WITH THIS MATTER. I ONLY HOPE THAT THE RESPONSE IS GRANTED THE SAME DAY IT IS FILED.

Respectfully Submitted,
"s//Roger Liverman, Jr"
Roger Liverman Jr.
PRO SE Plaintiff-Appellant
(903) 436-4602